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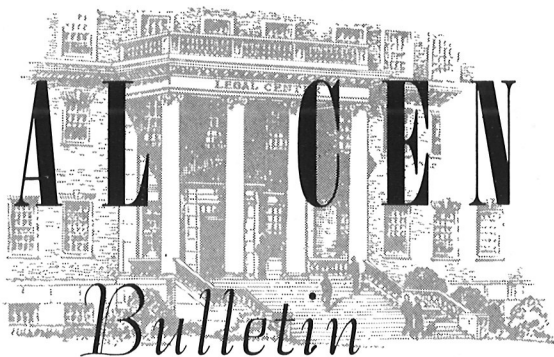
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LEGAL CENTER



Bulletin

VOL. 1

APRIL, 1952

NO. 1



JOINT PUBLICATION
SOUTHWESTERN LEGAL FOUNDATION
and

SOUTHWESTERN LEGAL FOUNDATION

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The Southwestern Legal Foundation is a non-profit educational and civic corporation, having as its purpose the establishment of a Legal Center for the improvement of the law and its administration and practice on the local, the national and the international level. Continuing education for the legal profession through institutes, seminars and conferences, as well as concentrated research into the fundamental principles of law and government are some of the major projects of the Legal Center. Oil and gas law, insurance law, taxation, administrative law including labor law, international law and relations are other fields to receive special attention. Information concerning the Legal Center may be obtained by writing the Southwestern Legal Foundation, Hillcrest at Daniels, Dallas, Texas.

CALENDAR OF COMING EVENTS

1952-1953

1952

April 14-19

ANNUAL LAWYERS WEEK—Southwestern Legal Center—DALLAS

May 8-10

LOUISIANA STATE BAR ASSOCIATION ANNUAL MEETING
SHREVEPORT

OKLAHOMA UNIVERSITY LAW DAY—NORMAN (8th)
BAR ASSOCIATION OF ARKANSAS ANNUAL MEETING
HOT SPRINGS (15, 16, 17)

June 17-19

ABA REGIONAL MEETING—YELLOWSTONE PARK

July 2-5

STATE BAR OF TEXAS ANNUAL MEETING—HOUSTON

September 15-19

AMERICAN BAR ASSOCIATION ANNUAL MEETING
SAN FRANCISCO

October

STATE BAR OF NEW MEXICO ANNUAL MEETING (Date Not Set)

November

INSTITUTE ON PERSONAL INJURY LITIGATION
SOUTHWESTERN LEGAL CENTER

December 3-6

OKLAHOMA BAR ASSOCIATION ANNUAL MEETING—TULSA

1953

January 21-23

FOURTH ANNUAL INSTITUTE ON THE LAW OF OIL
AND GAS AND TAXATION
SOUTHWESTERN LEGAL CENTER, DALLAS

February 22-25

ABA MID-WINTER MEETING—CHICAGO

April 20-25

THIRD ANNUAL LAWYERS WEEK
SOUTHWESTERN LEGAL CENTER, DALLAS

ANNUAL REPORT OF THE PRESIDENT

TO THE BOARD OF TRUSTEES:

Our crowning achievement during the past year was the dedication of the first completed and operating Legal Center in the United States.

The Southwestern Legal Center was officially inaugurated by leading judges, lawyers, educators, and business and professional leaders of the nation. Mr. Henry R. Luce, editor-in-chief of *Time* and *Life* magazines, described the Legal Center as "the seedbed of jurisprudence." We recognize that the task ahead is cultivation of that seedbed. Our twin goals are research in law and improving the administration of justice.

DEDICATION

The dedication was the high point in the first Annual Lawyers Week of the School of Law. In addition to officials of the University, there were in attendance two Supreme Court Justices, other eminent justices, the present and future president and three past presidents of the American Bar Association, eleven members of the Board of Governors of the Association, leading businessmen and educators, two representatives of foreign governments, presidents of numerous State Bar Associations, representatives of more than forty University Law Schools, and hundreds of other leading citizens. The celebration marked the twenty-fifth anniversary of the founding of Southern Methodist University Law School.

The Southwestern Legal Center, as dedicated, consists of three air-conditioned modern buildings. The Lawyers Inn, providing housing for seventy-five select law students with a spacious lounge, dining room and facilities for students, practicing lawyers, businessmen and educators, was financed by members of the Bar. It appropriately bears the name of Lawyers Inn, representing the gift of lawyers, and is a modern version of the British-revered Inns of Court. The Legal Center Building is a center of legal research, libraries, graduate studies, institutes, seminars and conferences, and provides the administrative headquarters of the SMU School of Law and the Southwestern Legal Foundation. Florence Hall, named in honor of a prominent business leader of the Southwest, Fred F. Florence, through the benefaction of his friend, our respected Trustee and one of the truly great philanthropists of our area, Karl Hoblitzelle, provides commodious and efficient classrooms and an operating Legal Aid Clinic. In addition it contains the dignified and beautiful Maco Stewart Memorial Courtroom, the gift of the late eminent lawyer it memorializes.

The buildings and furnishings, costing approximately two and one-half million dollars, were completed through the cooperation of Southern Methodist University and the Southwestern Legal Foundation, two private institutions. The Southwestern Legal Center is, therefore, itself a purely private institution, in no way responsible to government for support, and reflecting no viewpoint other than the independent judgment of its membership. Dedicated as a center to provide a rendezvous for scholars, businessmen, practicing lawyers, students, jurists and representatives of government, education, labor and the professions, it is now an effective functioning unit.

SMU LAW SCHOOL

The School of Law continues its close and effective cooperation with the Legal Center. The Law School is, in truth, the heart of the Center. Almost every member of the faculty is engaged in a Legal Center project of importance to the Bar and to the public.

The course of instruction in the School of Law continues to stress practical legal training. A true "laboratory of law" is supplied by our Legal Aid Clinic, in which students deal with clients having real problems. Compulsory instruction in court practice and procedure is given in the modern courtroom and the voluntary moot court program functions effectively. Our students have the unparalleled benefit of attending the many institutes sponsored by the Foundation every year.

The Graduate Law School is now firmly established and is attracting many practicing lawyers who desire instruction in specialized fields of law. The first two Master of Laws degrees were conferred in February, 1952. Courses in the Graduate School include Oil and Gas Law, Taxation, International Law, Jurisprudence, Insurance Law and Corporate Finance.

Our students body is not large—approximately 300—and will not be materially increased. Our goal is not a large law school, but the outstanding law school of the Southwest. Standards of admission and graduation have been steadily raised. Ours is the only law school in the Southwest which requires a summer session and three years study for a degree. Our students thus have the opportunity to specialize in the fields of taxation, labor law, administrative law, anti-trust law, oil and gas law, and insurance law, all of which we emphasize.

The student body is organized into a Student Bar Association which conducts forums led by practicing lawyers. One of our students, Dwight Hill, received the singular recognition of being elected President of the

American Law Students Association—the highest “professional” honor that can come to a law student in the United States.

Our faculty is being strengthened constantly. Last year we added as a new member Robert Keeton, formerly of Baker, Botts, Andrews & Parish of Houston. Next year we will have as a visiting professor, Dr. Josef L. Kunz, one of the foremost authorities on comparative jurisprudence and philosophy in the United States. Many members of our faculty have published articles of scholastic and technical importance in leading law journals of the nation.

A small law school can apply a rule of higher selectivity in admissions, and our constant effort is to bring better law students to the law school. In the long run, the caliber of the law student contributes principally to the strength of the law school. Beginning next year, we are offering twenty regional scholarships to top-ranking graduates of accredited four-year colleges in the States of Arkansas, Kansas, Louisiana, Missouri, Nebraska, New Mexico, Oklahoma, and Texas. While these University scholarships provide only tuition, they will help us obtain some outstanding college graduates who might for financial reasons go elsewhere. But as GI benefits diminish the relatively higher tuition for the Law School becomes an ever-increasing problem. In an attempt to attract the best potential material, we must be able to offer additional scholarships and financial aid in the form of loans to men who desire to enter Law School at the end of their third year of college study. Our scholarship funds are extremely limited, and we need additional funds for this purpose. Last year the Alumni of the Law School established an annual scholarship of \$500 to be awarded to an outstanding law student in his third year. Our principal need now is for scholarship funds to assist beginning students of exceptional ability.

CONTINUING EDUCATION OF THE BAR

Our institute program during the past year has been unusually successful. The first institutes and conferences were held during Lawyers Week. Outstanding among these were workshop institutes in Legal Draftsmanship, Taxation, and Trial Tactics, all of which were well-attended. Trial Tactics attracted wide attention and numerous requests have been received to provide an annual institute in this subject. In addition to outstanding papers by prominent out of state lawyers, a very popular and effective portion of the program was the panel discussion led by leading trial lawyers selected by the presidents of the State Bar Associations of each of the five Southwestern states within the jurisdiction of our Foundation. Representatives of the Junior Bar Association also participated.

The first special institute held in the Fall of 1951 was a Labor Law Institute entitled, "Dispute Settlement in a Defense Economy." This conference was held in cooperation with the American Arbitration Commission, and brought together representatives of industry, labor and government.

An institute on Personal Injury Litigation was held in December, 1951. Prominent attorneys representing both plaintiffs and defendants participated and discussed legal problems involving the trial of a personal injury suit. An unusual feature was the participation of some ten outstanding members of the medical profession in the Southwest. These specialists not only gave lectures but also illustrated their subjects by slides, pictures and anatomical exhibits.

Our Third Annual Institute on Oil and Gas Law was held in January, 1952. More than 600 lawyers and engineers attended from all parts of the United States and several provinces of Canada. The crowds were so large that on occasion it was necessary to utilize loud speakers in the lounge.

Beginning in the Fall of 1951 special non-credit courses on a graduate level have been offered to practicing lawyers seeking advanced training in specialized fields. A course in Oil and Gas Law extending throughout the Fall semester attracted 125 lawyers, and the Taxation course now in progress has about 100. These classes are given on Wednesday evenings each week for two hours. They last for approximately the fourteen weeks of the semester. Similar courses will be offered next year and the non-credit curriculum will be expanded. These courses are in addition to the ordinary program of the Graduate School.

We are convinced that lawyers want to "go back to school" to improve their professional knowledge and keep current with the rapidly changing specialties in the law. Moreover, it is apparent that progressive lawyers realize that attorneys should pursue courses in specialized subjects before attempting to practice such specialties. The medical profession has long demonstrated the wisdom of such continuing education. The time is fast approaching when the legal profession will impose similar post-graduate legal education with appropriate requirements as a condition to practice in highly specialized fields of the law.

PUBLICATIONS

Because of the interest and demand of the Bar our Foundation has undertaken, in cooperation with Matthew Bender & Company of New York, the publication and distribution of an Oil and Gas Reporter System, which will include tax cases involving oil and gas properties. This

Reporter will contain all cases by courts of last resort in the field of Oil and Gas Law, together with appropriate editing, comments and special articles relating to the development of Oil and Gas Law. Moreover, the tax consequences of oil and gas problems will be included in the Reporter by the publication of all Federal tax cases growing out of oil and gas problems, including appropriate annotations and comments. The creation, publication and distribution of this Reporter is a gigantic undertaking, but we are confident it will be successful, through the cooperation of the Foundation, the School of Law and lawyers specializing in the fields of oil and gas law and taxation. We are particularly indebted to the members of the Oil and Gas Division and Taxation Division of the Foundation for the planning and execution of the idea. Professor Wilmer D. Masterson, Jr. will be the editor in chief of the Oil and Gas Law Section and Professor J. W. Riehm, Jr. has assumed the same responsibility for Taxation. Advance sales have demonstrated a popular demand for this publication.

In addition to the Commemorative Issue of the First Annual Lawyers Week we have published in book form the proceedings of the Institutes on Personal Injury Litigation and Oil and Gas. The Southwestern Law Journal continues its useful work and the subscription list is gradually increasing. The expanded graduate program provides a source of valuable material for publication. As increased subscriptions permit, the Journal will be published with greater frequency.

This first edition of the Legal Center Bulletin is the beginning of another useful publication, to provide a quarterly report of research projects, calendar of events, Foundation Committee Reports and similar information. It will not displace or compete with the pictorial Legal Center News or the Southwestern Law Journal.

LIBRARIES

Our regular Law Library is building up rapidly through purchases and gifts from interested lawyers and friends. Many duplicate sets, which are so necessary in a large library, have been given. Additional books are always welcome.

The Oil and Gas Research Library has received hundreds of new volumes, principally through the many gifts of Mr. E. DeGolyer in whose honor the library was named. He has purchased and delivered several sets of books including an entire library which he recently purchased in New York. This collection includes not only volumes published in the United States but also many books from foreign countries. Since the

development and research in Oil and Gas Law is one of our major objectives, we are gratified that the library is advancing so rapidly.

Through the cooperation of the Taxation Division of the Foundation we have purchased and paid for the Carlton Fox Collection of nearly 200 volumes, at an initial cost of \$5,000. This collection contains the entire legislative history of Federal Taxation from its inception and is one of only six such collections in the United States. We now have four separate libraries in the Legal Center Building: The Student Law Library, Oil and Gas Research Library, International Law & Relations Library and Faculty Library. A fifth has been authorized—the Library on Comparative Law of the Americas.

LAW INSTITUTE OF THE AMERICAS

This is the first official announcement of one of our most significant new projects—the Law Institute of the Americas. This institute is the result of the vision and gift of a single anonymous lawyer of the Southwest. The purpose is to bring annually to our Legal Center approximately twenty-five outstanding young lawyers from North and South America, to study the Comparative Law of the Americas, with the view to expediting commercial intercourse between Republics of the Western Hemisphere, to encourage development of the natural resources of this hemisphere, and particularly to develop leaders, with knowledge of and sympathy for the problems of the respective nations, who can achieve a greater unity of purpose and action in the future among the American nations. The impact of world leadership upon the Americas challenges us to do our part to strengthen the idea of constitutional governments in the Americas as bulwarks against international Communism.

WALACE E. HAWKINS MEMORIAL

The untimely death of Wallace E. Hawkins on August 5, 1951, was a great shock to his many friends in the legal profession and the oil and gas fraternity. At the time of his death he was a lecturer in the Graduate Program of the School of Law, Southern Methodist University.

In 1938, Wallace Hawkins first gave a course on Oil and Gas in the School of Law, Southern Methodist University. Since that time he has served as a part-time lecturer in this field. With the launching of the Graduate Program in 1950, he was named one of the first members of the Graduate Faculty. He was intensely interested in his teaching duties and his courses were extremely popular with his students. During the last year he spent a large amount of time in research and planning for his new graduate seminar in "Unit and Cooperative Oil and Gas Opera-

tions." The day before his death he had forwarded to the school the outline of his new course.

Wallace Hawkins was one of the original trustees of the Southwestern Legal Foundation, and contributed greatly to the success of its first campaign for funds. He worked diligently to help organize the Oil and Gas Division and was its first chairman. He inspired and organized the 1950 Institute on Antitrust Laws and Price Regulations.

The passing of Wallace E. Hawkins is a loss to the School of Law and to the Foundation which can never be replaced. His interest, vision and energy contributed positively to the building of the Southwestern Legal Center. Friends in the legal profession and the oil and gas fraternity are seeking to memorialize his name by endowing at the Southwestern Legal Center the Wallace E. Hawkins Chair in the Law of Oil and Gas.



President R. G. Storey and A. W. Trice, Trustee, Ada, Oklahoma, view the Wallace Hawkins Memorial Plaque

FOREIGN LAW STUDENT PROGRAM

Seventeen graduate law students from foreign countries studied at the Legal Center during the past semester, the majority coming from Western Germany. Those from Germany included graduate law students, judges, and practicing lawyers. The Germans, together with students from Nationalist China, Hawaii, and Korea brought to us the viewpoints of the legal systems of other nations. Moreover, these foreign students studied and investigated our systems of judicial and legal education, free enterprise and the American way of life. We think the experiment was most worthwhile. Our foreign students stay with us long enough to learn much of our legal, governmental and industrial institutions, which will be of lasting benefit.

RESEARCH PROJECTS

One of our basic objectives in the original plan of creating our Legal Center as expressed in the Charter of Southwestern Legal Foundation was and is now to conduct scientific investigation and research in legal problems. Many skeptics doubted that legal research was practical. But our institution and others have demonstrated that research and development in law and social sciences have not kept pace with research in the natural sciences, medical, agriculture and other similar fields.

We now have several research projects in progress including:

1. Free Legal Aid, Low Cost Legal Service and Small Claims
2. Administrative Law and Procedure
3. Judicial Section of our State Constitution
4. Fundamental principles of Law and Government

I direct your attention to progress reports of a few of these in this Bulletin. Good research is a slow and long range endeavor. It costs money. Large sums are required to make research effective and comprehensive. Dean Griswold of the Harvard Law School properly said: "We think little of putting \$10,000,000 or more into a cyclotron while my school has for years had extreme difficulty in raising \$25,000 per year to cover costs of a remarkable and productive basic research into causes of juvenile delinquency." Our Foundation has authorized only a few thousand dollars for our projects. We receive numerous requests for additional and further legal research but I am confident that as we demonstrate the effectiveness and value of legal research the necessary funds will be provided. Our opportunities in this field are unlimited.

MEMBERSHIP

The active membership of the Southwestern Legal Foundation continues to grow steadily. We now have approximately 550 members. Our goal is 1000. When it is achieved we will be upon a sound basis. Lawyers are learning that the many financial benefits in the form of free attendance at institutes, reduced cost of Foundation publications, use of the library and other facilities of the Legal Center, and similar advantages, more than compensate for the cost of membership. In addition, they derive the satisfaction of being a part of this significant adventure in legal education, research and achievement. The strength of the Foundation is, of course, related to the interest and participation of its membership. The Southwestern Legal Center has proved its worth. We do need the support of more lawyers as members of the Foundation and as participants in the various Foundation committees.

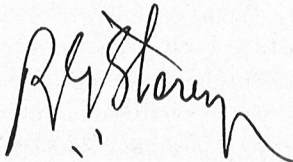
During the next year stress is to be placed upon the services of the Legal Center to the businessmen of the Southwest. Our research in problems of government and business has continued steadily since our first institute in 1950 on Antitrust Laws and Price Regulations. Our economy is competitive and partially regulated. The balance between the two requires constant study and attention. Maintenance of the free enterprise system requires fair and effective laws to preserve competition and constant study of laws which subject competitive business to bureaucratic control and management. We hope we can interest many more businessmen and business organizations to join us in this task so fundamental to a strong economy and a free society.

CONCLUSION

The past year has been the most fruitful of our existence. Only five years have passed since the idea of a Legal Center was born. The coming years should bring results of which all of us may be justly proud. The extent of our future accomplishments will be measured by our efforts and financial support.

I am very grateful for the loyalty of our members and officers and solicit your continued support.

Respectfully,

A handwritten signature in dark ink, appearing to read "R. G. Starn". The signature is fluid and cursive, with a long horizontal stroke at the end.

President, Southwestern Legal Foundation

REPORT OF THE RESEARCH STUDY IN LEGAL AID, LOW COST LEGAL SERVICE AND SMALL CLAIMS COURTS

BY TALBOT RAIN

Active work on this Study began in the middle of October, 1951. The first task was to crystalize objectives and determine the scope of the enquiry. It was originally thought that a great portion of the work would be devoted to legal aid, its nature, need, technique, and existing facilities. In gathering materials it soon became apparent that much excellent material on this subject was already available. It further appeared that the thinking on the subject by the leaders of the bar was fairly well settled. Furthermore, in the last two years almost all vestiges of opposition to organized legal aid have disappeared. Bar associations throughout the nation are now actively engaged in establishing such organizations. The selling job has been successful and, in fact, almost completed. Witness, for example, the results in Texas of the trip throughout the state in February, 1952 of Messrs. Cecil Burney, Emery Brownell, and Arthur Schoepfer in behalf of legal aid. This public and professional acceptance, along with the excellent materials on the subject now available such as the work of the Survey of the Legal Profession, which has resulted in Brownell, *Legal Aid in the U.S.*, 1951 and Johnstone, *Legal Aid Clinic Reports*, 1951, seem to call for a new appraisal of the part that legal aid should play in the Foundation Study. In short, it is the opinion of the writer that the Foundation should drop from its study the work on Legal Aid as originally contemplated. It is no longer a public issue in principle or practice or technique.

A reservation must be made, however. The controversy in the field of legal aid in the future will be on the issue of private or governmental sponsorship and support. The proposals of the Lawyers Guild that the United States government support organized legal aid make this question a controversial one. The Study in this connection must be emphasized and accelerated.

The observations about legal aid are not true of low cost legal services. The activity in this field is still embryonic and needs some direction and original thinking. The initial plans on this subject and the subject of small claims courts should be followed. Especially is the subject of small claims courts timely in view of the work to be done at the Legal Center with reference to the judicial section of the Texas Constitution. Valuable cooperation will now be available in this connection.

The results of the work to date has lead the writer to another conclusion. The scope of the Study should be broadened. Most of the effort

by the bar in the past fifty years in the United States to improve the position of the person of poor or marginal means in the administration of justice has been to supply such person with a lawyer. This is the purpose of legal aid and lawyer's referral services. The need to supply a lawyer in such cases is then not a new thought in 1952. If the motives which have regenerated the effort to supply a lawyer are sound, are the ends fully met when the lawyer's services are available? Are there other obstacles that the poor must hurdle before they can enjoy a position in the administration of justice equal to that of a man of means? Should these other obstacles, if any, be removed? Can they be removed without sacrificing other principles? What are the practical limitations, if any, upon the basic philosophy that the poor and rich are equals under the law? As a matter of fact, is there any such basic philosophy as expressed in the preceding sentence? If so, what is its origin and its real meaning—what is its application in 1952?

There is little doubt that such questions will be raised in the next half-century. Once lawyers' services are made available, the next step will be to consider what some may call other inequities in the administration of justice. In my opinion, if the Foundation is to lead the way into new fields, such problems should be included in this Study.

Practical limitations must, of course, govern the scope of the Study. It is my feeling that the Study in this connection should be limited to an historical, philosophical and constitutional reappraisal of the idea of equality of all men in the administration of justice, as it applies to procedural matters in the pre-trial, trial and appeal of a lawsuit. Listed below as illustrations are ten factors that might call for study. It should not be assumed that the writer has concluded that they are all major evils, or that even if they are, that there is a feasible way of removing them without at the same time removing other more cherished rights and principles. For example, then, the question might be asked:

"Are persons of poor or marginal means handicapped because of:

1. lack of time off from employment to take care of personal legal matters?
2. lack of time to secure, or funds to pay others to secure, factual evidence of importance to their cause?
3. a requirement to pay a court cost deposit prior to filing of the case on the docket or issuance of process against the defendant?
4. lack of funds to secure expert testimony or special evidence such as medical testimony, land surveys, birth certificates, copies of marriage licenses, wills, deeds, payroll records, etc.

5. procedural rules in landlord and tenant cases, which require a tenant to continue to pay rent during pendency of suit.
6. procedural rules which do not provide for a stay of execution of judgment pending appeal except upon bond or cash deposit.
7. lack of funds to pay costs of obtaining transcript of record for use on appeal.
8. lack of funds to pay for newspaper notices incident to citation by publication.
9. lack of funds to purchase an abstract of title.
10. special legislation, or the lack of it, dealing with subject matter in which the poor are often involved such as workmen's compensation, child support, wife desertion, landlord and tenant, and adoption.

Conversation and correspondence with many of the leaders in the field of legal aid have confirmed my belief that the next step, the next subject of enquiry and the next proposals for change will lie in this field. In working in this field, the Foundation would be among the very first.

If such a broadened scope be acceptable, then the subjects of legal aid, low cost legal service and small claims courts, will of course be included in their proper place as some of the factors affecting the problem as a whole. In short, the work would be a study of the status of the poor and persons of marginal income in the administration of justice, and might well be titled: "The Poor in the Administration of Justice."

If this new approach is approved, it will result of necessity in a delay in the completion of the Study, because it is broader in scope and because much of the work done this Fall will not be included. The value of the completed work should justify the delay. A completion date two years from this date would seem to be the earliest that could be estimated.

REPORT OF OIL AND GAS DIVISION

RALPH B. SHANK, *Chairman*

The Oil and Gas Division reports herewith its activities for the year ending March 31, 1952:

1. For the second successive year the Division made possible the Oil and Gas Research Fellowship. The fellowship is awarded to out-of-state law graduates. This year the fellowship was awarded to Henry Martin Shine, Jr. Mr. Shine obtained his A.B. degree at Harvard and his LL.B. at Notre Dame. In law school he was editor of the Law Review.

2. The Division has supplied from its members instructors for graduate courses given in the law school of Southern Methodist University.

3. One of our most successful projects was the series of 12 lectures on subjects dealing with the law of oil and gas given in the Program of Continuing Legal Education. These lectures were attended by more than 100 members of the Bar, and were enthusiastically received.

Subjects covered and the lectures are as follows:

Creating Property Interests in Oil and Gas—Correlative Rights and Duties as to the Nature and Extent of Ownership and Effect Thereof, W. D. Masterson, Jr.; *Title Examination Problems*, Fred A. Lange, Gulf Oil Corp., Houston; *Remedies Against Trespassers, Both When the Trespass Results in Production and Otherwise*, A. W. Walker, Jr., Dallas; *Mineral Ownership, Including Ownership of One or More of the Elements of a Mineral Interest—Validity—Rights Incident Thereto—Construction of Mineral and Royalty Deeds*, W. D. Masterson, Jr., Dallas; *Construction of a Modern Oil and Gas Lease*, Wayland H. Sanford, Dallas; *Functions of the Railroad Commission*, J. A. Rauhut, Austin; *Assignment of Interests Carved Out of the Working Interest—Operating Agreements, Mining Partnerships, Farmouts, Overrides, etc.*, Mr. Masterson; *Partition of Mineral Interests*, Mr. Masterson.

4. The highlight of the year's activities was the Third Annual Institute on the Law of Oil and Gas and Taxation held January 17 through January 19, 1952. The papers delivered constituted advanced treatment on the subject of unit operation of oil and gas properties. The fact that more than 600 lawyers from different parts of the United States, from Mexico and from Canada registered for this Institute attests to the quality of these annual Institutes. Much interest is already being manifested in the Fourth Annual Institute to be held in January, 1953.

In behalf of the Oil and Gas Division, I desire to express our sincere gratitude to all who aided and participated this past year in the Division's work and activities.

In closing this report, the Oil and Gas Division again pays its respects to the memory of the late Wallace Hawkins, who was its first chairman.

REPORT OF THE TAXATION DIVISION

GEORGE E. RAY, *Chairman*

The principal activity of the Taxation Division during the past year, as in past years, was its part in the preparation for and carrying out of the Annual Institute on Oil and Gas Tax Law and Taxation. This activity was under the able leadership of Thomas O. Shelton, Jr., Chairman of the Institute Section. The Institute Section also assisted the Clinic Committee of the Dallas Bar Association in putting on a series of four lectures

on taxation by members of the Taxation Division on consecutive Saturday mornings in January and February, 1952. Another function undertaken by the Institute Section was a series of fourteen two-hour lectures on taxation given each Wednesday evening by members of the Taxation Division, beginning in February and extending through May, 1952. A list of the subjects covered and the lectures are as follows:

(1) *General Concept of Taxable Income*, John W. Riehm; (2) *Gains and Losses on Sales and Exchanges; Income Accorded Special Treatment by Statute*, Wentworth T. Durant; (3) *Credits, Exemptions and Deductions*, Stephen L. Mayo; (4) *Accounting Problems; Tax Returns*, George E. Ray; (5) *Corporation and Stockholders*, Thomas O. Shelton, Jr.; (6) *Corporations vs. Partnerships*, O. W. Hammonds; (7) *The Proper Manner of Forming a Corporation and Handling Mergers, Consolidations and Reorganizations of Two or More Corporate Enterprises*, J. W. Bullion; (8) *Partnerships, Trusts and Estates*, Homer J. Fisher; (9) *Oil and Gas Transactions*, J. Paul Jackson; (10) *Estate Tax*, Felix Atwood; (11) *Estate Tax*, Iverson Walker; (12) *Gift Tax and Stamp Taxes*, Charles O. Galvin; (13) *Practice and Procedure*, Wright Matthews; (14) *Procedure in Handling Fraud Cases*, William P. Fonville.

An important project undertaken by the Taxation Division during this year was the acquisition of the 168-volume collection of legislative and administrative materials on federal taxation compiled by Carlton Fox. The collection is unique in that it contains the original materials and is one of only six collections extant, of which only three, including our collection, constitute a complete set. The other collections are located in different parts of the Country, and ours is the only collection in the entire Southwest. The Division has undertaken to raise the \$5,000 cost of the collection through the series of taxation lectures given this Spring at the Legal Center by members of the Taxation Division, which lectures will be published and the total proceeds, together with other funds to be raised by the Taxation Division, will be used to pay for the Carlton Fox Collection. The Chairman of our Special Committee on Carlton Fox Compilation of Federal Tax Materials was J. W. Riehm.

During the year active and substantial support and contributions were made by the American Law Institute Project Section to the American Law Institute on various drafts relating to the improvement of the federal income tax law. The Chairman of our American Law Institute Section was J. Paul Jackson. The Graduate and Research Section, under its Chairman, J. W. Riehm, cooperated with the American Law Institute Section on their work on the American Law Institute drafts.

The Membership Section, under the Chairmanship of O. W. Ham-

monds, performed active service in its endeavors to increase the membership of the Taxation Division during the past year. Also active was the Legislative Section, under the Chairmanship of Rupert N. Gresham, in whose absence Homer J. Fisher, the Vice Chairman, acted as Chairman of the Section, which began the consideration of a joint project with the Tax Section of the State Bar for the revision of the Texas inheritance tax statutory provisions.

RESEARCH PROJECT

ADMINISTRATIVE LAW

The Research Project on Administrative Law of the Southwestern Legal Foundation had its beginning in the publication in the Spring, 1951, issue of the *Southwestern Law Journal* of a Proposed Administrative Procedure Act for Texas. This draft was prepared by Professor Whitney R. Harris of the SMU School of Law and was based upon considerable research undertaken by him into comparable legislation in other states.

This draft act has been taken by the State Bar Committee on Administrative Law as the basis for proposals which the Committee will present to the State Bar at the next Annual Meeting in July, 1952.

The State Bar Committee has met twice and will meet again in May for the purpose of considering changes in and amendments to this draft act. In order to enable the Committee properly to analyze the act, it has been necessary for it to have the aid of further research in the field. The Southwestern Legal Foundation is providing this additional research.

One study is the analysis of all comparable legislation enacted in other states of the United States. This is a large undertaking since legislation in this field is seldom to be found in any single place in state statutes and differs greatly from state to state. The task of assembling and analyzing these materials is an enormous one. The Southwestern Legal Foundation has assumed full responsibility for the preparation of this report.

A second study is the analysis of particular Texas state agencies with the view of ascertaining the extent to which the proposed legislation will affect their operations. Initial studies of these agencies are being made by various members of the State Bar Committee. However, the entire work is being directed and coordinated by the Southwestern Legal Foundation which is providing both the impetus and the research for improving procedures at the administrative level in Texas.

GRADUATE STUDIES DIVISION

Begun experimentally in September, 1949, and opened officially in September, 1950, the program of Graduate Studies of the School of Law is now in successful operation. The program is designed to satisfy the needs of those who desire to pursue the scholarly study of law beyond the undergraduate curriculum culminating in the LL.B. degree.

Enrollment in the Graduate Studies Division is limited to those persons who have been awarded a B.A. or other first degree from an accredited college or university, and a LL.B. degree from an approved law school. It is required further that the undergraduate law school work shall have been of such quality as to indicate probable success in graduate study. The graduate seminars are held to a small size and the principal emphasis is placed upon individual work. A substantial part of the program consists of a dissertation prepared by the student under faculty supervision.

At the present time graduate instruction is offered in the fields of Corporations, Jurisprudence, International Law, Oil and Gas, and Taxation. Beginning in 1952-1953 the program will be enlarged to include advanced work in the fields of Insurance and of Latin-American Comparative Law. Excellent research libraries in each of these fields, except Latin-American law, have been established, and the Latin-American works are in process of being assembled. The program will be extended further as facilities become available, the field of Labor Law being next in order.

Through the generosity of friends of the School of Law, graduate fellowships in the amount of \$1500 per annum have been made available in the fields of Oil and Gas, Taxation, and Latin-American Comparative Law. These fellowships make it possible for outstanding graduates of this and other law schools to pursue their studies and to make valuable contributions to the fund of legal knowledge. It is hoped that this fellowship program can be enlarged, and particularly that interested persons will establish fellowships in fields of legal theory and research having no immediate connection with the earning power of the lawyer, but of vital import to the profession as a whole.

That the School of Law fulfils a real need in offering its graduate program is indicated by the fact that in the Fall of 1951, thirty-five men, all law school graduates and admitted to the bar, were enrolled as candidates for a graduate degree. This group comprised 11.6% of the total enrollment of the School.

LEGAL CENTER LIBRARY

The Law Library of The Southwestern Legal Center is housed in the beautiful, new Main Legal Center Building. Included in the library are the main reading room, known as the Potts Memorial Library, the De-Golyer Oil and Gas Library, International Law Reading Room, Faculty Library, a typing room, and five levels of stacks with a capacity for 125,000 volumes. At present the library contains approximately 40,000 volumes, carefully selected to avoid unnecessary duplication and to insure the greatest possible usefulness.

Notable additions to the library during 1951-52 are listed below:

- I. Reports
 1. Alaska Reports—complete to date
 2. Hawaii Reports—complete to date
 3. Philippine Reports—complete to date
 4. Public Utilities Reports—complete to date
 5. Completed early state reports for District of Columbia, Maryland, California and New York.
 6. Ohio Opinions—complete to date
- II. British Material
 1. Complete set of Law Journal, 1828-1948.
 2. Montreal Reports, 14 volumes
 3. Canadian Law Times, 42 volumes
- III. Periodicals
 1. Completed the files for forty law reviews, making a total of 100 complete law reviews.
 2. Started seventy-seven new subscriptions.
- IV. Looseleaf Services
 1. Subscribed to *Federal Controls*, published by Bureau of National Affairs. This contains the latest price and production regulations.
 2. Texas Railroad Commissioner's Rules and Regulations on Oil and Gas.
 3. Texas State House Reporter, containing daily oil regulation reports and weekly oil calendar and index.
- V. Carlton Fox Taxation Collection
 1. This set of beautifully bound volumes contains all the revenue acts of the United States with their complete legislative histories and all regulations and studies published through November, 1951. This is one of six complete sets in the United States and the only one in the Southwest.

Many members of the Foundation and interested citizens have donated 3,858 volumes to the collection this year. It is through such donations

that we hope to build one of the finest Law Libraries in the Southwest. It is suggested that members of the Foundation, especially those in Arkansas, Louisiana, Oklahoma, and New Mexico, contact the library if you have Reports, Session Laws or other materials you would like to add to our collection.

It has been noted upon a number of occasions while reading annual or periodic reports of other libraries that many of these libraries have special funds which have been established by some member. The Foundation would greatly benefit by the creation of such a fund or funds which could be used for the development of particular collections of books for which the present budget cannot adequately provide; for example, for the development of a collection in a special subject field such as Oil and Gas, Insurance, International Law, Comparative Law, or Jurisprudence.

A cordial and insistent invitation is extended to all members to visit and use the Legal Center Library.

OIL & GAS REPORTER ANNOUNCED

Effective January 1, 1952, the SOUTHWESTERN LEGAL FOUNDATION began preparation for the publication of an OIL & GAS REPORTER, a law and taxation service which will cover all published oil and gas decisions from all jurisdictions, both state and federal, as well as all federal tax cases relating to oil and gas.

The REPORTER will contain the full decision in every case involving substantive questions of oil and gas law and questions of taxation relating to the oil industry. Every case will be followed by a comment or annotation.

In addition to the court decisions on oil and gas problems, the REPORTER will publish all new statutes relating to oil and gas substantive law and tax law. It will also publish all Bureau of Internal Revenue regulations, other than purely routine rulings. It is contemplated that articles by leading men in the oil and gas industry will be included in the REPORTER from time to time.

The OIL & GAS REPORTER will be published five times yearly and will be correlated and completely indexed into a bound volume at the end of the year. April 15, 1952, is the publication date set for the first issue, covering decisions, statutes, and administrative regulations promulgated during the period January 1-March 1, 1952. The REPORTER is being prepared under the auspices of the Oil and Gas and Taxation Divisions of the Southwestern Legal Foundation and the editorial work

is being done by Professors W. D. Masterson, Jr., and J. W. Riehm of the Southern Methodist University School of Law; and the printing, publication, and distribution is being handled by MATTHEW BENDER & CO. of New York, official publishers for the SOUTHWESTERN LEGAL FOUNDATION.

THE SOUTHWESTERN LAW JOURNAL

The *Southwestern Law Journal* is now in its sixth year of publication. During the first two years it was known as *Texas Law and Legislation*. The change in name was effected to reflect the broader region and purposes that the publication is intended to serve. The first two volumes contained two numbers each. Subsequent volumes have contained four numbers. Each volume has around 480-500 pages.

Total circulation for each issue averages 750, of which approximately 650 is paid circulation. The *Journal* has had a slow but steady growth. Most of its subscribers are Texas attorneys. The number of subscribers can undoubtedly be increased by advertising and by other means of bringing the *Journal* to the attention of the bar. Plans are now being made, and others have been executed, which have shown definite results in the way of gaining new subscribers.

The *Southwestern Law Journal* is not self-supporting. Twelve hundred copies of each issue are printed, and the annual cost is around \$4500. Revenue from subscriptions and advertising has run around \$2200 annually. The deficit is paid by an appropriation from the Southern Methodist University Law School budget.

Of the four issues published each year, one is a symposium issue and another is a survey of common law and legislative developments in the Southwest for the preceding year. The Spring, 1952, issue, (Vol. 6, No. 2) is a Symposium on Civil Procedure in the Texas Trial Courts. The Summer, 1952, issue (Vol. 6, No. 3) will be the survey number. The Winter (Vol. 6, No. 1) and Fall (Vol. 6, No. 4) issues will be of the regular type of law review publication.

The *Southwestern Law Journal* has been and continues to be very much a student publication. That is to say, in the past as much as 60% of its contents has been written by students. This large fraction is accounted for in the survey issue, which is written entirely by students. The Student Editorial Board consists of the upper 10-15% of the law school student body. Students writing for the review receive a small amount of academic credit. It is felt that the students on the *Journal* receive good experience and practice in careful writing. Several law firms in Dallas and Houston make awards for excellent student writing.

In future issues the proportion of undergraduate student writing will fall. It is, of course, desirable that the *Journal* should have its share of professional writing by attorneys and law teachers. Nearly everyone on the Southern Methodist University Law School faculty has contributed to the *Journal*. With the installation of the graduate program in the Law School, a fruitful source of manuscripts has become available to the *Journal*. And there are indications that the bar generally will supply articles and comments from time to time.

In summary, the *Southwestern Law Journal* is gaining in financial support through an increased number of subscribers and has good prospects for serving the legal profession well by the publication of worthwhile articles and comments.

LENNART V. LARSON
Faculty Editor

RESEARCH ON THE PROPOSED UNIFORM COMMERCIAL CODE AS IT WOULD AFFECT THE TEXAS LAW

Professors Harvey L. Davis and Lennart V. Larson are presently engaged in research and study of the Commercial Paper Negotiable Instruments and Sales portions of the Proposed Uniform Commercial Code that has recently been drawn up in final form and recommendation by the American Law Institute and the National Conference of Commissioners on Uniform State Laws. The Texas Legislative Council was directed by the Texas Legislature to study the provisions of the Uniform Commercial Code as they would affect the present Texas law. The Texas Legislative Council, not having the personnel to handle this extensive research, turned to various Law Schools and the Southwestern Legal Foundation for help on this project.

Professor Lennart V. Larson of Southern Methodist University and the Southwestern Legal Foundation volunteered to do research on the portion of the Code dealing with Sales, and Professor Harvey L. Davis of Southern Methodist University and the Southwestern Legal Foundation volunteered to do the work on the Code dealing with Negotiable Instruments.

The research involved consists of examining all Texas statutes and cases dealing with the law of Negotiable Instruments and Sales, comparing and analyzing these statutes and cases with respect to the proposed Code. A detailed monograph will be drawn up setting out whether provisions of the Code are the same as the present Texas law and where it makes changes in the Texas law and discussing the nature and extent of such changes. The purpose of this research is to enable the legislators of

Texas to see how the Code would affect our present law and then determine whether the changes that would be made should be adopted.

The proposed Code covers fields of wide interest and great importance since it would bring under one general uniform Code the following matters: Sales, Commercial Paper, Bank Deposits and Collections, Documentary Letters of Credit, Bulk Transfers, Warehouse Receipts, Bills of Lading and Other Documents of Title, Investment Securities, and Secured Transactions.

THE SOUTHWESTERN REGIONAL MOOT COURT COMPETITION

The Southwestern Legal Foundation has been designated as the Regional Sponsor for the Southwest of the Annual Moot Court Competition that originated in the New York area under the sponsorship of the Association of the Bar of the City of New York. This Moot Court Competition is now nationwide in scope and is divided up into regions roughly corresponding to the territorial jurisdiction of the Federal Circuit Courts of Appeal. The winners of the Regional Competitions participate in finals held in New York. The first nationwide competition was held in 1950. The Southwestern Legal Foundation sponsored that event, and again sponsored the 1951 competition which was held at the Legal Center on November 30 and December 1, 1951.

The direction of the competition for the Southwest was under Professor Harvey L. Davis of the Legal Foundation. Invitations were extended to all accredited Law Schools in the Southwest Region and the following Law Schools participated: The University of Texas, Oklahoma University, Tulane University, and Southern Methodist University. The question briefed and argued was one prepared by the Bar Association of the City of New York, and all the participating schools in the United States argued the same question. The winner this year of the Southwest Competition was the Tulane Law School and they were awarded a beautiful sterling silver plaque for their permanent possession. This plaque is an annual award created by the Dallas law firm of Burford, Ryburn, Hincks and Ford. The winner of the National Competition at New York this year was the University of Arizona Law School. Tulane was eliminated during an earlier round of the finals.

PAMPHLET ON BRIEFING TECHNIQUE ANNOUNCED

I recently made a contract with Bancroft-Whitney Publishing Company whereby they will soon publish my pamphlet on briefing technique.

The technique goes back to 1930, when during my first months of law

practice I was overwhelmed with numerous important briefs. It became apparent that in order to handle them I must develop a system of some sort. For two years, I concentrated on increasing my thoroughness, accuracy and speed. I experimented with all possible starting points, and listed material in all possible ways. Finally a technique emerged which seemed to take advantage of all time-saving shortcuts which are consistent with thoroughness. For the remaining four years of my practice I was unable to improve these briefing methods.

Early in my teaching experience I began to outline the methods to seniors about to enter practice. Finally last summer I put the technique on paper for the first time. Before submitting it to a publisher, I showed the manuscript to more than a dozen carefully chosen practicing lawyers and several newly graduated students. Many of them made helpful suggestions; their general approval was unanimous.

As a final preliminary test I selected fifty of our graduates within the last five years, all of whom had heard the talks on the technique, and mailed them a brief questionnaire. It inquired to what degree, if any, they had found the method to be of practical help; what per cent of it they were using; whether it was worth presenting to successive classes of seniors; and how to improve the presentation of it. An accompanying letter exhorted them to write the exact, unvarnished truth, and to insure anonymity, asked them to typewrite their answers and not to sign their names. An envelope was enclosed addressed to the librarian, so I would not even know what town each reply came from. The results of this questionnaire were extremely gratifying, with a unanimity that I have never seen surpassed.

The pamphlet will purposely be quite short (50 to 75 pages) in the belief that lawyers will then take time to read it carefully. It seems to be a surprising fact that there isn't in print a single exposition of a really detailed and practical method of briefing with thoroughness, accuracy and speed. The publishers believe there is an imperative need, now more than ever before, for such a book.—Clyde Emery.

SOUTHWESTERN LEGAL FOUNDATION COOPERATES WITH STATE BAR IN RESEARCH ON THE JUDICIAL ARTICLE OF THE TEXAS CONSTITUTION

During the year 1952 an important step was taken by the Southwestern Legal Foundation and the State Bar of Texas toward revision of the Judicial Article, Article V, of the Texas Constitution. The Southwestern Legal Foundation provided for research and study concerning the present Judicial Article and its deficiencies with the hope that from such

research can come a modernization and integration of the Texas judiciary in such a manner that the judicial business of the state will be carried out efficiently, expeditiously, and at as low a cost as possible to the state and the litigant. Mrs. A. J. Thomas, Jr., member of the Texas Bar Association and former American diplomat, and A. J. Thomas, Jr., Associate Professor of the Southern Methodist University Law School, were placed in charge of this research with directions to make a complete study of the Judicial Article, comparing it with such provisions of the constitutions of other states, and further to suggest revisions which would incorporate therein effective standards of judicial administration.

Mr. Cecil E. Burney, President of the State Bar, appointed an Advisory Committee of prominent and distinguished attorneys, judges, law professors and laymen under the chairmanship of Mr. Charles I. Francis, co-chairman of the State Bar Committee of Constitutional Revision. This Advisory Committee was called upon to give its advice and counsel to the research group. It had its first meeting on March 1 in Dallas at the Southwestern Legal Center. At such time its members responded enthusiastically to the idea that changes and modernization should be carried out concerning the general organization and integration of state courts, and the methods of the selection, tenure and retirement of judges. In addition the need for specialized courts, the possibility of granting rule-making power to the Court of Criminal Appeals, and methods of improving the jury system were noted.

A sub-committee was then appointed under the chairmanship of District Judge Penn J. Jackson of Cleburne. This sub-committee was given the following duties:

- a. To define and direct the scope of investigation and research.
- b. To prepare and submit a draft of a proposed new Judicial Article of the Texas Constitution which was to be presented at a special meeting of the Advisory Committee to be called before the annual meeting of the State Bar of Texas.
- c. To cooperate with the accredited law schools of Texas, appropriate committees of the State Bar and members of the Advisory Committee in the investigation and preparation of such draft.

Judge Jackson called a meeting of this sub-committee on April 2nd. At the time of this meeting the research group had prepared a study of the Texas Judicial Article with suggestions for revisions as well as a preliminary draft Judicial Article. Discussion at the meeting centered around this preliminary draft with many further suggestions being offered by members of the sub-committee. The research group was ordered to incorporate these suggestions in the preliminary draft by not later

than May 3rd. At such time, a meeting of the Advisory Committee was called so that the preliminary draft can be presented for further consideration. From this meeting it is planned that a final draft will be agreed upon can be offered at the annual meeting of the State Bar for possible approval, and following to the Legislature of the State. It is hoped that from this research a revision of the Texas judiciary in an overall effective manner can be forthcoming.

SOUTHWESTERN LEGAL FOUNDATION

Membership List

Lawyers of the Southwest whose contributions have had such a large part in the building of the SOUTHWESTERN LEGAL CENTER

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Johnson, Hubert D.	Norton, W. Autry	Shults, Leslie M.
Johnson, J. Edward	O'Connor, Rhea	Silverberg, Philip A.
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